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PATENT

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

I hereby certify that this paper or fee is being deposited with the U.S. Postal Service with sufficient pre-paid postage as First Class Mail, on November 13, 2002, and is addressed to: Assistant Commissioner for Patents, Washington, D.C. 20231.

  
Peter J. Manso, Reg. No. 32,264

11-13-2002  
November 13, 2002  
Deposit Date

In re Application of: David J. Bova  
Serial No.: 09/470,603  
Filing Date: December 22, 1999  
Group Art Unit: 1615  
Examiner:  
Title: ***NICOTINIC ACID COMPOSITIONS FOR TREATING HYPERLIPIDEMIA AND RELATED METHODS THEREFOR***

Attn.: Office of Petitions  
Assistant Commissioner for Patents  
Washington, D.C. 20231

November 13, 2002

Sir:

**PETITION TO REVIVE FOR FAILURE TO  
TIMELY RESPOND TO OFFICE ACTION**

This petition to revive and withdraw any holding of abandonment of the above-identified application for U.S. patent for failure to timely respond to Office Action.

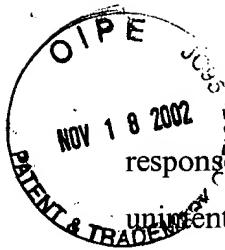
The above-identified application for U.S. patent became abandoned for failure to timely respond to Office Action mailed on March 8, 2002. The abandonment date therefore is September 8, 2002.

Applicant respectfully submits that the abandonment of the above-identified application for U.S. patent was unintentional. The entire delay in filing the required reply, i.e., filing a

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response or filing a CPA, from the due date for the reply until the filing of this petition was unintentional.

The delay was caused by the fact that the undersigned attorney left his previous firm and joined his current firm after the mailing of the Office Action. The Office Action was mailed to the old firm. After receipt by the new firm, the Office Action was inadvertently misplaced and consequently not docketed.

In a telephone call initiated by the Examiner on September 17<sup>th</sup>, the Examiner asked if any response was submitted to the outstanding office action mailed on March 8, 2002. The undersigned attorney advised the Examiner that he could not recall, but was out of town and would check when he returned. When the undersigned attorney returned and checked the file, he did not find the office action or a response.

It wasn't until sometime well after the September 17<sup>th</sup> telephone call, that the misplaced March 8, 2002 Office Action was discovered, which was well beyond the six month response date. This error was simply clerical in nature and totally inadvertent. This inadvertent clerical error was the entire cause for the delay. Accordingly, the entire delay in filing a reply, i.e., payment of issue fee, from the due date for the reply until the filing of this petition was unintentional.

Thus, kindly charge deposit account number 04-1105 the appropriate fee for this petition under 37 C.F.R §1.137(b) and 37 C.F.R §1.17(m) to avoid any further delay.

Submitted herewith is an Amendment as an appropriate response.

Please forward all further communications regarding the above-identified application for U.S. patent and this petition to:

Peter J. Manso  
Edwards & Angell, LLP  
1150 East Las Olas Boulevard  
Suite 1150  
Fort Lauderdale, FL 33301  
(954) 727-2600 (office)  
(954)727-2601 (fax)

If the Petitions Office should have any questions or require additional information or



clarification, Applicant requests that the Petitions Office contact the undersigned attorney of record herein, Peter J. Manso, at the phone numbers and address noted above and below.

Respectfully Submitted,

By and For Edwards & Angell, LLP

Date: November 13, 2002

Peter J. Manso  
Reg. No. 32,264

Peter J. Manso  
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A handwritten signature in black ink that reads "Peter J. Manso". The signature is fluid and cursive, with "Peter J." on the top line and "Manso" on the bottom line.